

David Chiappetta (SBN 172099)  
 E-mail: [DChiappetta@perkinscoie.com](mailto:DChiappetta@perkinscoie.com)  
 Brian Hennessy (SBN 226721)  
 E-mail: [BHennessy@perkinscoie.com](mailto:BHennessy@perkinscoie.com)

**PERKINS COIE LLP**

101 Jefferson Drive  
 Menlo Park, CA 94025-1114  
 Telephone: (650) 838-4300  
 Facsimile: (650) 838-4350

Attorneys for Plaintiff  
 Tagged, Inc.

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 OAKLAND DIVISION

Tagged, Inc., a Delaware corporation,  
 Plaintiff,

v.

Does 1 through 10 as Affiliate Programs  
 for FLIRTGARDEN.NET, and Does 11  
 through 500 as Affiliate Spammers for  
 FLIRTGARDEN.NET,

Defendants.

Case No. CV-09-1707 SBA

**~~PROPOSED~~ ORDER GRANTING  
 PLAINTIFF TAGGED, INC.'S  
 ADMINISTRATIVE REQUEST PURSUANT  
 TO LOCAL RULE 7-11 FOR LEAVE TO  
 TAKE DISCOVERY PRIOR TO RULE 26  
 CONFERENCE**

The Court, having considered Plaintiff Tagged, Inc.'s Administrative Request Pursuant To Local Rule 7-11 For Leave To Take Discovery Prior To Rule 26 Conference, hereby GRANTS the motion. Therefore, it is hereby ORDERED as follows:

**(1) Immediate Discovery**

ORDERED that Tagged Inc. ("Tagged") may serve immediate discovery for the limited purpose of obtaining the names, current and former addresses, telephone numbers, e-mail addresses, IP addresses, and/or other information (collectively "Identifying Information") that may be used to identify the individuals or entities responsible for:

(a) **flirtgarden.net and its Redirecting URL**: registering, controlling, or paying for the domains, sub-domains, or websites located at or under flirtgarden.net and/or flirtstock.com (collectively “flirtgarden.net”) or <http://realromanticlove.biz/user/1114377936>, including the registrant contact, administrative contact, technical contact, and billing contact, and including all IP addresses used by any such persons or entities to register, administer, maintain, operate, pay for, or upload information to the domain name or the website;

(b) **flirtgarden.net Affiliate Programs**: organizing, owning, operating and/or funding affiliate marketing programs that compensate, or have compensated, any individual or entity for driving online traffic to flirtgarden.net, its sub-domains, sub-directories, and/or any of the webpages contained therein (“Affiliate Programs”); or

(c) **flirtgarden.net Affiliate Spammers**: driving online traffic to flirtgarden.net, its sub-domains, sub-directories, and/or any of the webpages contained therein, from tagged.com or <http://realromanticlove.biz/user/1114377936>, and/or any of their respective sub-domains, sub-directories, and/or webpages (“Affiliate Spammers”).

ORDERED that the for the purpose of obtaining the discovery authorized herein, Tagged may immediately serve subpoenas on the operators, registrars, registrants, and internet service providers of the domains, sub-domains, or websites located at or under flirtgarden.net or <http://realromanticlove.biz/user/1114377936> (“Providers”) in the form attached as Exhibit A hereto.

ORDERED that Tagged may serve immediate discovery, including subpoenas in the form attached as Exhibit B hereto, upon all individuals or entities responsible for registering, controlling, or paying for the domain flirtgarden.net or any sub-domain or website located thereunder for the limited purpose of obtaining the Identifying Information for the Affiliate Programs and Affiliate Spammers.

ORDERED that Tagged must serve a copy of this Order attached to any subpoena it serves pursuant to this Order.

## **(2) Identification and Service on Defendants**

1 ORDERED that the Providers shall identify the individuals or entities upon whom the  
 2 subpoena is directed within five days of service of the subpoena, and in that five-day period serve  
 3 such individuals or entities with a copy of the subpoena and this Order.

4 **(3) Motions to Quash or Other Objections**

5 ORDERED that any individual or entity served with a subpoena pursuant to this Order  
 6 shall have 20 days from service of the subpoena, to move to quash or otherwise object to the  
 7 subpoena. If no such action is taken within this time period, then following its expiration, the  
 8 recipient of the subpoena shall immediately produce the information requested in the subpoena.

9 **(4) Preservation of Evidence**

10 ORDERED that the recipient of a subpoena pursuant to this Order shall preserve and not  
 11 destroy all documents and evidence requested in the subpoena.

12 **(5) Scope of Use of the Identifying Information**

13 ORDERED that any information disclosed to Tagged in response to the subpoena may be  
 14 used by it solely for the purpose of protecting its rights in the above-captioned case. Any such  
 15 information filed with this Court shall conform to Federal Rule of Civil Procedure 5.2 and Civil  
 16 Local Rule 3-17.

17 **Rationale of Decision**

18 In accordance with *UMG Recordings, Inc. v. Doe*, No. C 08-1193 SBA, 2008 WL  
 19 4104214, \*4 (N.D. Cal., September 3, 2008), Tagged has made a showing of “good cause” to  
 20 conduct discovery prior to the Federal Rule of Civil Procedure 26(f) conference for the limited  
 21 purpose of obtaining the Doe Defendants’ Identifying Information.

22 IT IS SO ORDERED.

23 Dated this \_30TH\_ day of JUNE \_\_\_\_\_, 2009.

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## EXHIBIT A

Please produce:

(1) **Identifying Information for flirtgarden.net and Its Redirecting URL:** All logs, records, data, documentation and other information containing the names, current and former addresses, telephone numbers, e-mail addresses, and/or IP addresses for all individuals or entities responsible for registering, controlling, or paying for any of the domains, sub-domains, or websites located at or under flirtgarden.net and/or flirtstock.com (collectively “flirtgarden.net”) or <http://realromanticlove.biz/user/1114377936>, including the registrant contact, administrative contact, technical contact, and billing contact, or similar information suitable to identify said individuals or entities; and

(2) **IP Addresses Used for flirtgarden.net and Its Redirecting URL:**  
The IP addresses used by any such individuals or entities to register, administer, maintain, operate, pay for, or upload information to any of the domains, sub-domains, or websites located at or under flirtgarden.net or <http://realromanticlove.biz/user/1114377936>.

## EXHIBIT B

Please produce:

- (1) **Identifying Information for flirtgarden.net Affiliate Programs:** All logs, records, data, documentation and other information containing the names, current and former addresses, telephone numbers, e-mail addresses, and/or IP addresses (“Identifying Information”) for all individuals or entities responsible for organizing, owning, operating and/or funding affiliate marketing programs that compensate, or have compensated, any individual or entity for driving online traffic to flirtgarden.net and/or flirtstock.com (collectively “flirtgarden.net”), its sub-domains, sub-directories, and/or any of the webpages contained therein;
- (2) **Identifying Information for flirtgarden.net Affiliate Spammers:** All logs (including web server logs), records, data, documentation and other information containing the Identifying Information, including affiliate codes, for all individuals or entities who drive, or have driven, traffic to flirtgarden.net, its sub-domains, sub-directories, and/or any of the webpages contained therein, from tagged.com or <http://realromanticlove.biz/user/1114377936>, and/or any of their respective sub-domains, sub-directories, and/or webpages.
- (3) **Documents Relating to Traffic Driven to flirtgarden.net by Affiliate Spammers:** All logs (including web server logs), records, data, documentation and other information reflecting, referencing, or evidencing traffic driven to flirtgarden.net, its sub-domains, sub-directories, and/or any of the webpages contained therein, from tagged.com or <http://realromanticlove.biz/user/1114377936>, and/or any of their respective sub-domains, sub-directories, and/or webpages, and/or credits, consideration, or payment received for driving such traffic.
- (4) **Identifying Information for flirtgarden.net Affiliate Spammers Using Certain Affiliate Code:** All logs (including web server logs), records, data, documentation and other information concerning all individuals or entities assigned the affiliate code 29881, including documents containing their Identifying Information, and all information regarding credits, consideration, or payment received by them.